

**Supplemental Letter of Findings: 01-20170587
Indiana Individual Income Tax
For Tax Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Supplemental Letter of Findings.

HOLDING

Individual was liable for additional individual income tax because he failed to provide documentation to rebut the presumption that Best Information Available assessments issued by the Department were correct.

ISSUE

I. Individual Income Tax - Best Information Available Assessment.

Authority: IC § 6-3-2-1; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the proposed assessment of individual income tax based on best information available to the Department.

STATEMENT OF FACTS

Taxpayer is an individual resident of Indiana. Taxpayer did not file his Indiana full-year resident income tax return (Form IT-40) for tax years 2010 through 2015. In February 2016, the Indiana Department of Revenue ("Department") issued a notice to Taxpayer informing him that he had not filed a Form IT-40 for tax years 2010 through 2014 and that his 2015 return would be due soon. The letter instructed Taxpayer that he had thirty days within which to file the tax returns due. Taxpayer did not file the requested returns within the thirty day deadline. In July, October, and November of 2016, the Department utilized the best information available ("BIA") to issue proposed assessments for tax years 2014, 2010 and 2015, respectively. Each proposed assessment instructed Taxpayer that should he wish to protest the assessment, he had sixty days within which to do so.

Taxpayer protested the proposed assessments in a letter dated January 27, 2017. The Department responded noting that Taxpayer's protests for 2010 and 2014 were outside the statute of limitations for filing a protest, but that the 2015 protest was timely. Therefore an administrative hearing was scheduled to discuss 2015. Taxpayer failed to attend the administrative hearing but requested a rehearing. The rehearing was granted and at the rehearing Taxpayer was given additional time within which to submit documentation. This Supplemental Letter of Findings results and addresses Taxpayer's protest of the 2015 proposed assessment. Additional facts will be provided as necessary.

I. Individual Income Tax - Best Information Available Assessment.

DISCUSSION

Taxpayer protested proposed assessments for tax years 2010, 2014 and 2015. Taxpayer's protests for 2010 and 2014 were untimely, but his protest of the 2015 proposed assessment was timely. During the administrative rehearing, Taxpayer asserted that the proposed assessments were not accurate because he was disabled and unemployed from 2010 through 2015, returning to work in 2017. Taxpayer was provided the opportunity to provide documentation supporting his assertion, but failed to do so.

As with any assessment of additional tax, Taxpayer bears the burden of establishing that the Department's assessments are incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie

evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Thus, a taxpayer is required to provide documentation explaining and supporting his challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes an income tax on "the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a).

The Department was required to issue the proposed assessments under the authority of IC § 6-8.1-5-1(b), which states:

If the department reasonably believes that a person has not reported the proper amount of tax due, the department **shall** make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. (**Emphasis added**).

During the rehearing, Taxpayer explained that he became disabled and unable to work in 2010 and was unemployed until 2017. It was agreed at the rehearing that Taxpayer would provide documentation to support his assertion. Taxpayer was given two weeks after the rehearing to provide this documentation, but he failed to do so.

Taxpayer has not provided any documentation to rebut the statutory presumption that the BIA assessment for 2015 was correct. Therefore, Taxpayer has failed to meet his burden under IC § 6-8.1-5-1(c) of proving that the Department's proposed assessment was wrong.

FINDING

Taxpayer's protest is respectfully denied due to Taxpayer's failure to provide requested documentation.

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